

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:04-CR-92-BO-1

UNITED STATES OF AMERICA)
)
)
v.) O R D E R
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)
DERRICK MAURICE TAYLOR)

This matter is before the Court on Defendant Derrick Maurice Taylor's Motion to Reduce Sentence [DE 21]. The United States has filed a Motion to Dismiss [DE 23] and Mr. Taylor did not respond. The motions are now ripe for adjudication.

On May 26, 2004, Mr. Taylor pleaded guilty, pursuant to a written plea agreement, to one count charging possession of a firearm by a felon in violation of 18 U.S.C. §§ 922(g) and 924. Mr. Taylor was sentenced on October 29, 2004 to 190 months of imprisonment. His appeal was dismissed based upon the plea agreement's appeal waiver. Mr. Taylor now requests that the Court grant him an early release from his prison sentence because he was "overpunish[ed]."

Pursuant to 18 U.S.C. § 3582(c), a court "may not modify a term of imprisonment once it has been imposed" except in three circumstances: (1) upon motion of the government, in certain circumstances where a prisoner has reached an advanced age or other "extraordinary and compelling reasons;" (2) upon motion of the government pursuant to Federal Rule of Criminal Procedure 35; or (3) when there is a retroactive change to the Sentencing Guidelines that reduces the defendant's sentencing range. In this case, Mr. Taylor has not asserted that any of the three permissible grounds for modification of a sentence apply to him. The government has not moved for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1) or Rule 35, and there does not appear to be any retroactive amendments to the Sentencing Guidelines applicable to the defendant.

Accordingly, Mr. Taylor's Motion must be dismissed.

For the foregoing reasons, Mr. Taylor's Motion to Reduce Sentence [DE 21] is DENIED.

The United States' Motion to Dismiss [DE 23] is GRANTED.

SO ORDERED, this 21 day of January, 2012.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE